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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/262,658	03/04/1999	JOSHUA A. ROSENTHOL	UV-81	9736
7590	07/13/2004		EXAMINER	
WALTER M EGBERT III FISH AND NEAVE 1251 AVENUE OF THE AMERICAS NEW YORK, NY 100201104			SALCE, JASON P	
			ART UNIT	PAPER NUMBER
			2611	

DATE MAILED: 07/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/262,658	ROSENTHOL ET AL.
	Examiner	Art Unit
	Jason P Salce	2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-113 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-113 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 04 March 1999 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>1</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: 114, 310, 312, 401, 402, 404 and 554. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2, 5-7, 9-10, 12, 12-16, 18, 21, 26-29, 36-42, 67-72, 74-79, 82-84, 86-87, 91-93, 95, 99-100, 104, 106-109 and 111 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Young et al. (U.S. Patent No. 5,353,121).

Referring to claim 1, Young discloses displaying a list of programming themes (see Figure 14 for displaying themes 108/110 based upon the selection of "Movies" 106).

Young also discloses providing an option with the interactive television program guide for the user to select a programming theme from the list of programming themes (see again Figure 14 for displaying selectable "Movies" and "Sports" themes on an EPG

and Column 14, Lines 50-51) and a level of interest in that programming theme which is indicative of the user's programming interests (see Column 14, Lines 51-52 and Column 15, Lines 39-45 for selecting a star rating (1 to 4) for the theme selected).

Young also discloses modifying the list of programming themes based upon the selected theme and the level of interest (see Figure 15 for a list of themes based upon the selection of "Sports" 106 and also note again Column 15, Lines 39-45).

Referring to claim 2, Young discloses an option for the user to designate a high level of interest in the selected programming theme (see again Column 15, Lines 39-45 for selecting four stars, which represents a high level of interest).

Referring to claim 5, Young discloses that the theme menu provided in Figure 14 is used to search for program listings by theme (see Column 14, Lines 47-52).

Referring to claim 6, Young discloses that when a user chooses a theme and a qualifier (one to four stars) the downloaded schedule is sorted accordingly (see again Column 14, Lines 47-52). Also note that the downloaded program schedule is stored in a database (see Column 18, Lines 49-51 and Column 15, Lines 54-56).

Referring to claim 7, Young discloses that the database is maintained on the user's television equipment (see Column 18, Lines 46-55).

Referring to claim 9, see Figure 15 for displaying the result of the user inputting search criterion.

Referring to claim 10, see Figure 14 for selecting a rating of one star (see Column 15, Lines 39-45).

Referring to claim 12, Young discloses that when a theme is selected along with a rating (one to four stars) then certain themes are displayed according to the selection of the theme and rating (level of interest) (see Figure 15 for specifically displaying sports themes), therefore when a level of interest in Figure 15 such as professional is selected, all themes that are not related to the professional level of interest are inherently deleted. Furthermore, see the "OFF" option for deleting programming that is not of interest to the user (see Column 16, Lines 60-64).

Referring to claim 14, Young discloses displaying a programming theme in a predetermined color (see Column 16, Lines 52-63).

Referring to claims 15-16 and 18, see the rejection of claims 6-7 and 9, respectively.

Referring to claim 21, see the rejection of claim 7.

Referring to 26-29, see the rejection of claims 9 and 19-21, respectively.

Referring to claims 36-42, see the rejection of claims 1, 14, 6, 3 and 19-21, respectively.

Referring to claims 67-68, see the rejection of claim 1.

Referring to claims 69-72 and 74-77, see the rejection of claims 2, 5-7, 9 and 19-21, respectively.

Referring to claims 78-79, 82-84, 86-87, 89, 91-93 and 95, see the rejection of claims 1-2, 5-7, 9-10, 12, 14-16 and 9, respectively.

Referring to claims 99-100, see the rejection of claims 14 and 6, respectively.

Referring to claims 104, 106-109 and 111, see the rejection of claim 1-2, 5-7 and 9, respectively.

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***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 3-4, 8, 11, 13, 17, 19-20, 22-25, 30-35, 43-66, 73, 80-81, 85, 88-90, 94, 96-98, 101-103, 105, 110, 112-113 are rejected under 35 U.S.C. 103(a) as being unpatentable over Young et al. (U.S. Patent No. 5,353,121) in view of Shah-Nazaroff et al. (U.S. patent No. 6,317,881).

Referring to claims 3-4, Young discloses the modifying step in claim 1, as well as displaying the list of programming themes and also displaying the programming themes that have been modified according to the selection of a one of themes and a level of interest in the theme, but fails to show that the themes that these themes are placed at the top of the list (note Young only discloses showing the themes in any order after selection of a primary theme, and a level of interest (one to four stars)). Shah-Nazaroff also discloses an display interface similar to Young, which asks the user's preferences, which includes selecting a multitude of themes (in Figure 7) in order to further rank the list of themes presented to the viewer (see Column 5, Lines 41-48 and Column 6, Lines 6-9 for giving a highest ranking to a theme presented to the user (Column 12, Lines 29-

30)), therefore after selection of a genre or genre(s) (a.k.a. themes) the list is organized with the highest ranked theme (highest level of interest) at the top of the list. The examiner also notes that even though Young's theme selection menu is specific to themes, Shah-Nazaroff also discloses themes. Note that a program listing, such as Sportscenter, is a sports theme, therefore the programming lists ranked and displayed by Shah-Nazaroff are programming themes.

Also note in regards to claim 4, since the highest ranked theme is placed at the top of the list, then the lowest ranked theme would inherently be placed at the bottom of the list.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the theme menu, as taught by Young, using the list ranking, as taught by Shah-Nazaroff, for the purpose of predicting whether or not the broadcast will be of interest to potential subsequent viewers (see Column 2, Lines 3-6 of Shah-Nazaroff).

Referring to claim 8, Young discloses receiving the schedule information in the VBI signal, but fails to suggest that a server maintains the television program guide. Shah-Nazaroff discloses storing and ranking the television program guide listings at the server (see Column 5, Lines 8-11).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the system of Young, by utilizing the server, which maintains (ranks) the programming guide, as taught by Shah-Nazaroff, for the purpose of minimizing storage requirements at the client's television equipment by only

transmitting preferred programming, thereby minimizing the cost of the user's television equipment.

Referring to claim 11, see the rejection of claim 4.

Referring to claim 13, see the rejection of claims 3-4, where ranking each theme is inherently a numerical ranking from highest to lowest.

Referring to claim 17, see the rejection of claim 8.

Referring to claim 19, see the rejection of claim 8.

Claim 20 corresponds to claim 1, where Shah-Nazaroff discloses that system controller 110, which receives the television programming and listings, is a computer (see Figure 9 and Column 9, Lines 42-60).

Referring to claim 22, see the rejection of claim 8.

Referring to claim 23, see the rejection of claim 3 (which depends on claim 1).

Referring to claims 24 and 26-39, see the rejection of claim 4, 9 and 19-21, respectively.

Referring to claim 25, see the rejection of claims 5 and 6.

Referring to claim 30, see the rejection of claim 4 (which depends on claim 1).

Referring to claim 31, see the rejection of claim 12.

Referring to claim 32, Young discloses that themes and be selected or deselected (see Column 15, Lines 5-22), therefore if themes are selected the list of themes is sorted according to the selected themes, and if the themes are deselected, the sorted list will restore the previous themes displayed before the selection took place.

Referring to claims 33-35, see the rejection of claims 19-21, respectively.

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Claim 43 is directly related to claim 1, where Young discloses the limitations of claim 1, but fails to teach the additional limitation of providing an option for creating a preference profile with which the selected programming theme and level of interest are associated. Shah-Nazaroff discloses storing viewer characteristics and responses to questionnaires in a viewer characteristics file/personal profile (see Column 3, Lines 63-67 and Column 4, Lines 1-15).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the system of Young, to utilize the personal profile system, for storing a user's preferences and presenting programs according to the preferences, as taught by Shah-Nazaroff, for the purpose of predicting whether or not the broadcast will be of interest to potential subsequent viewers (see Column 2, Lines 3-6 of Shah-Nazaroff).

Claim 44 corresponds to claim 43, where Shah-Nazaroff discloses the additional limitation of providing multiple profiles (see Column 4, Lines 15-21 for storing profiles for multiple viewers used for viewers at multiple locations). Shah-Nazaroff fails to disclose providing an option to select which profile to make active. The examiner takes Official Notice that it is well known to provide the user an option to select a particular profile in order to present specific lists of programs (themes) to a user.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the user interface, as taught by Young, using the option to make a personal profile active, for the purpose of allowing a user to select a

certain level of programs at a specific time, thereby not limiting the user to only one set of preferences.

Referring to claims 45-66, see the rejection of claims 1-22, respectively.

Referring to claim 73, see the rejection of claim 8.

Referring to claims 80-81, 85, 88, 90, 94 and 96-97, see the rejection of claims 3-4, 8, 11, 13, 17, 19 and 22, respectively.

Referring to claim 98, see the rejection of claims 1 and 3 and also note that window 110 in Figures 14-15 discloses a plurality of favorite programming themes.

Referring to claim 101, see the rejection of claim 3.

Referring to claims 102-103, see the rejection of claims 43-44, respectively.

Referring to claims 105, 110, 112 and 113, see the rejection of claims 3, 8, 19 and 22, respectively.

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***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P Salce whose telephone number is (703) 305-1824. The examiner can normally be reached on M-Th 8am-6pm (every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (703) 305-4380. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

June 22, 2004



VIVEK SRIVASTAVA  
PRIMARY EXAMINER